

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

KURT ANGELONE,
Plaintiff,

v.

MICHAEL FURSI, *et al*,
Defendants.

Case No. C07-5538RJB-KLS

ORDER ADOPTING REPORT
AND RECOMMENDATION

This matter comes before the Court on the Report and Recommendation of U.S. Magistrate Judge Karen L. Strombom (Dkt. 59) and Plaintiff's Objections to the Magistrates [sic] Report and Recommendation that the District Court Judge Deny the Plaintiff's Motion for Entry of Default (Dkt. 65). The Court has reviewed the Report and Recommendation (Dkt. 59), and Objections to the Report and Recommendation (Dkt. 67), Plaintiff's Objections to the Magistrates [sic] Report and Recommendation that the District Court Judge Deny the Plaintiff's Motion for Entry of Default (Dkt. 65) and the remaining record.

I. Report and Recommendation (Dkt. 59)

The Report and Recommendation (Dkt. 59) should be adopted. Plaintiff appears to no longer be seeking preliminary injunctive relief concerning the legal property he claims was confiscated, as that property has been returned. As stated in the Report and Recommendation, Plaintiff makes no showing that he is entitled to preliminary injunctive relief. His motion for a temporary restraining order should be denied and the Report and Recommendation adopted.

1 II. Plaintiff's Objections to the Magistrates [sic] Report and Recommendation that the
2 District Court Judge Deny the Plaintiff's Motion for Entry of Default (Dkt. 65)

3 To the extent that Plaintiff moves for reconsideration of the Order Adopting the Report and
4 Recommendation (Dkt. 47) and denying Plaintiff's Motion for Default against Defendants Khursid and
5 Figueroa (Dkt. 63), his motion should be denied.

6 Local Rule CR 7(h) provides in relevant part as follows:

7 Motions for reconsideration are disfavored. The court will ordinarily deny such motions in the
8 absence of a showing of manifest error in the prior ruling or a showing of new facts or legal
authority which could not have been brought to its attention earlier with reasonable diligence.

9 Plaintiff has failed to show a manifest error in the prior ruling or a new facts or legal authority
10 which could not have been brought to the Court's attention earlier with reasonable diligence. Moreover,
11 as stated earlier, the record indicates that Defendant Figueroa is being represented by the Washington State
12 Attorney General and has filed an Answer to the Complaint. Dkts. 55 and 56. As to Defendant Khursid,
13 there is no evidence in the record that he has been served. The Notice and Acknowledgment of Receipt of
14 Summons and Complaint by Mail form, which when executed waives the necessity of personal service, is
15 unsigned by Defendant Khursid. Dkt. 49. Plaintiff's motion for the United States Marshall to personally
16 serve Defendant Khursid was denied because he failed to provide an accurate address for Defendant
17 Khursid. Dkt. 54. This Court does not have personal jurisdiction over Defendant Khursid because he has
18 not been personally served. *Mason v. Genisco Technology Corp.*, 960 F.2d 849, 853-54 (9th Cir. 1992).
19 A default judgment entered against a person not made a party to the litigation by proper service of process
20 would be void. *Id.* (holding that a person is not bound by a judgment in litigation to which he has not
21 been made a party by service of process). Plaintiff's motion (Dkt. 65) should be denied and the Order
22 Adopting the Report and Recommendation (Dkt. 63) should be affirmed.

23 Accordingly, it is hereby **ORDERED** that:

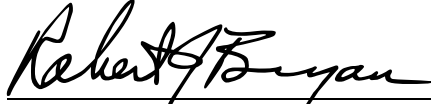
24 (1) the Magistrate Judge's Report and Recommendation (Dkt. 59) is approved and

25 **ADOPTED;**

26 (2) Plaintiff's Objections to the Magistrates [sic] Report and Recommendation that the District
27 Court Judge Deny the Plaintiff's Motion for Entry of Default (Dkt. 65) is **DENIED**; the
28 Order Adopting the Report and Recommendation (Dkt. 63) is **AFFIRMED**; and

1 (3) the Clerk is directed to send copies of this Order to Plaintiff and any other party that has
2 appeared in this action.

3 DATED this 14th day of April, 2008.

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5 ROBERT J. BRYAN
6 United States District Judge
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